

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 KEITH DONNELL GREGG,

11 Petitioner,

12 vs.

13 BRIAN WILLIAMS, SR., *et al.*,

14 Respondents.
15

Case No. 2:14-cv-00465-APG-PAL

ORDER

16
17 This action is a *pro se* petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254,
18 filed by a Nevada state prisoner.

19 Petitioner has filed a motion to proceed *in forma pauperis*. (Dkt. #1). Based on the
20 information regarding petitioner's financial status, the Court finds that the motion to proceed *in*
21 *forma pauperis* should be granted. The Court has reviewed the petition, and it shall be filed and
22 served on respondents.

23 Petitioner has filed a motion for the appointment of counsel. (Dkt. #2). Pursuant to 18
24 U.S.C. § 3006(a)(2)(B), the district court has discretion to appoint counsel when it determines that
25 the "interests of justice" require representation. There is no constitutional right to appointed counsel
26 for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v.*
27 *Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally
28 discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023

1 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984).

2 However, counsel must be appointed if the complexities of the case are such that denial of counsel
3 would amount to a denial of due process, and where the petitioner is a person of such limited
4 education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also*
5 *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The petition on file in this action is well-written
6 and sufficiently clear in presenting the issues that petitioner wishes to bring. The issues in this case
7 are not complex. It does not appear that counsel is justified in this instance. Petitioner's motion for
8 the appointment of counsel is denied.

9 **IT IS THEREFORE ORDERED** that petitioner's application to proceed *in forma pauperis*
10 (Dkt. #1) is **GRANTED**.

11 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel (Dkt.
12 #2) is **DENIED**.

13 **IT IS FURTHER ORDERED** that the Clerk shall **FILE and ELECTRONICALLY**
14 **SERVE** the petition (Dkt. # 1-2) upon the respondents.

15 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry
16 of this order within which to answer, or otherwise respond to, the petition. In their answer or other
17 response, respondents shall address all claims presented in the petition. Respondents shall raise all
18 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
19 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,
20 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in
21 the United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have
22 **forty-five (45)** days from the date of service of the answer to file a reply.

23 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
24 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy
25 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
26 Division of the Clerk of Court.

27 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
28 General of the State of Nevada a copy of every pleading, motion, or other document he submits for

1 consideration by the Court. Petitioner shall include with the original paper submitted for filing a
2 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
3 General. The Court may disregard any paper that does not include a certificate of service. After
4 respondents appear in this action, petitioner shall make such service upon the particular Deputy
5 Attorney General assigned to the case.

6 Dated this 25th day of July, 2014.
7

8 
9 _____
10 UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28